

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re: : Case No.: 13-24381-GLT
Diane M. Hughes : Chapter: 13
: :
: Date: 4/10/2019
Debtor(s). : Time: 09:00

FILED

APR 11 2019

CLERK, U.S. BANKRUPTCY COURT
WEST DIST. OF PENNSYLVANIA

PROCEEDING MEMO

MATTER:

#148 - Continued Debtor's Objection to the Notice of Mortgage Payment Change filed by PNC Bank (Claim #2)
[COC due: 4-4-19]

APPEARANCES:

Debtor: Dennis M. Sloan
Trustee: Ronda Winnecour
PNC: James Warmbrodt

NOTES:

Sloan: There was no stipulation, but we have resolved everything with PNC except payment of my attorney's fees. This entire action was engendered solely by PNC's actions. My client should not be required to pay those fees and I should not be required to bear the cost of PNC's actions.

Court: Has there been any discussion about what those fees were?

Sloan: My fees on this issue total \$5,359 from September 6, 2018 through the discussion of the stipulation, not including my appearance today. I have an itemization with me.

Warmbrodt: All of the substantive issues have been resolved in the proposed stipulation. The attorney's fees issue did not surface until we were writing the agreed stipulation. We do not dispute the amount of the fees, we dispute that we should be made to pay them. The previous stipulations to paying fees involved charges PNC could not account for, whereas this dispute concerned a credit, which we believe is a material distinction.

Court: Does the trustee agree to the proposed stipulation except with respect to any treatment of attorney's fees?

Winnecour: Yes.

Court: Why should attorney's fees be granted without any prior notice having been given?

Sloan: It is within the equitable powers of the court. None of these fees would have been incurred if not for PNC's mistakes.

Court: This issue has had a long and tortured history. Nonetheless, any request for attorney's fees must be made upon proper motion that provides PNC an opportunity to be heard.

OUTCOME:

1. The proposed stipulation that was provided at the hearing on April 10, 2019 is entered, with the understanding that all rights with respect to any payment of attorneys fees are reserved to the parties (O/E).
2. To the extent Debtor seeks an award of attorney's fees, then on or before April 24, 2019, she shall file any motion for attorney's fees incurred in connection with the Notice of Mortgage Payment Change [Dkt. No. 148] (Text order to issue).

DATED: 4/10/2019